

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE :
DISCIPLINARY PROCEEDINGS :
AGAINST :
: FINAL DECISION AND ORDER
: LS0605121RSG
KENNETH M. HEMERLEY, :
RESPONDENT :

Division of Enforcement File: 05 RSG 015

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Kenneth M. Hemerley
2285 Bootmaker Drive
Beloit, WI 53511

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Department. The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Kenneth M. Hemerley (Date of Birth: July 4, 1962) is duly licensed as a Private Security Person in the State of Wisconsin (Permit #108-8893) by the Wisconsin Department of Regulation and Licensing. The permit was first issued on September 3, 1998, and is current through August 31, 2006. Mr. Hemerley’s last address reported to the Department is 2285 Bootmaker Drive, Beloit, Wisconsin 53511.
2. On May 2, 2005, Mr. Hemerley (under the name Kenneth M. Hemmerley) was convicted in Rock County Circuit Court of one charge of misdemeanor Disorderly Conduct – Domestic Abuse. A true and correct copy of the Criminal Complaint and Judgment is attached as Exhibit A. Exhibit A is incorporated by reference into this Order.
3. Mr. Hemerley did not contact the Department of Regulation and Licensing in writing within 48 hours of conviction concerning the date, place and nature of the conviction. The Department of Regulation and Licensing received information from Mr. Hemerley’s employer regarding the conviction approximately one month after the date of conviction.
4. In resolution of this matter, Kenneth M. Hemerley consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction to act in this matter pursuant to Wis. Stat. sec. 227.44(5).

2. By the conduct referred to in paragraphs 2 and 3 of the Findings of Fact, Kenneth M. Hemerley violated Wis. Stat. secs. 440.26 (4m)(b), 440.26 (6)(a)1., 440.26 (6)(a)2., and 440.26 (6)4. In addition, he violated Wisconsin Administrative Code sec. RL 35.01 (2). Those sections provide as follows:

a. Wis. Stat. sec. 440.26(4m) REPORTING VIOLATIONS OF LAW b) *Reporting requirement*.

A person who holds a license or permit under this section and is convicted of a felony or misdemeanor, or is found to have committed a violation, in this state or elsewhere, shall notify the department in writing of the date, place and nature of the conviction within 48 hours after the judgment of conviction or the judgement finding that the person committed the violation. Notice may be made by mail and may be proven by showing proof of the date of mailing the notice.

b. Wis. Stat. sec. 440.26(6)(a)1.

(a) Subject to the rules adopted under s. 440.03(1), the department may reprimand the holder of a license or permit issued under this section or revoke, suspend or limit the license or permit of any person who has done any of the following:

1. Been convicted of a misdemeanor or found to have violated any state or local law that is punishable by a forfeiture, subject to ss. 111.321, 111.322 and 111.335.

c. Wis. Stat. sec. 440.26(6)(a)2.

(a) Subject to the rules adopted under s. 440.03(1), the department may reprimand the holder of a license or permit issued under this section or revoke, suspend or limit the license or permit of any person who has done any of the following:

2. Engaged in conduct reflecting adversely on his or her professional qualification.

d. Wis. Stat. sec. 440.26(6)4.

(a) Subject to the rules adopted under s. 440.03(1), the department may reprimand the holder of a license or permit issued under this section or revoke, suspend or limit the license or permit of any person who has done any of the following:

4. Violated this section or any rule promulgated or order issued under this section.

e. Wis. Admin. Code sec. RL 35.01 Unprofessional conduct.

The department may deny an application for renewal, limit, suspend or revoke a credential, or reprimand a credential holder upon proof that the credential holder or any owner of an agency has engaged in conduct reflecting adversely on professional qualification. Conduct reflecting adversely on professional qualifications includes, but is not limited, to any of the following:

- (2) Violating, or aiding or abetting the violation of, any law the circumstances of which substantially relate to the practice of a private detective or private security person. A credential holder who has been convicted of

a felony, misdemeanor or ordinance violation, as defined in s. 440.26(4m), Stats., shall send to the department within 48 hours after the judgment of conviction or the judgment finding the person committed the violation, a copy of the complaint or other information which describes the nature of the crime or conviction and the judgment of conviction in order that the department may determine whether disciplinary action must or should be taken against credential holder.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Kenneth M. Hemerley (permit number 108-8893) is **REPRIMANDED**.

Kenneth M. Hemerley shall within 60 days of the date of this Order pay full costs of this proceeding in the amount of FOUR HUNDRED (\$400.00) dollars. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
Post Office Box 8935
Madison, Wisconsin 53708-8935
Telephone (608) 261-7904
Fax (608) 266-2264

Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's permit. The Secretary in her discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely pay costs as set forth above, the Respondent's Private Security Person permit (#108-8893) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

4. This Order shall become effective upon the date of its signing.

THE DEPARTMENT OF REGULATION AND LICENSING

By Celia M. Jackson
Secretary

5/12/06

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	STIPULATION
	:	LS# _____ RSG
KENNETH M. HEMERLEY,	:	
RESPONDENT.	:	

Division of Enforcement File: 05 RSG 015

It is hereby stipulated between Kenneth M. Hemerley, Respondent, and John C. Temby, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Mr. Hemerley’s licensure by the Division of Enforcement (05 RSG 015). Mr. Hemerley consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondent has been provided the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Department of Regulation and Licensing (Department). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Mr. Hemerley waives all rights to any appeal of the Department's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement may appear before the Department in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with the Department’s deliberations on the Stipulation.
7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Department adopt this Stipulation and issue the attached Final Decision and Order.

Kenneth M. Hemerley

Respondent

License Number 108-8893

2285 Bootmaker Drive

Beloit, WI 53511

Date

John C. Temby

Attorney

Division of Enforcement

Post Office Box 8935

Madison, WI 53708-8935

Date

[by jct/Case 05 RSG 015/Costs-\$400]